

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CELINE SA,

Plaintiff,

v.

**THE PARTNERSHIPS and
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE “A”,**

Defendants.

Civil Action No. 23-cv-02652

Judge Hon. Charles P. Kocoras

Magistrate Judge Hon. Maria Valdez

ANSWER TO COMPLAINT

Defendant MoYoTo (“Defendant”) by and through its undersigned attorney, and for its Answer to Plaintiff Celine SA’s (“Plaintiff”) Complaint, state as follows:

I. JURISDICTION AND VENUE

1. Defendant admits that in this action Plaintiff attempts to assert claims under the Lanham Act 15 U.S.C. § 1051, *et seq.*, 28 U.S.C. § 1338(a)-(b) and 28 U.S.C. § 1331, that this Court has subject matter jurisdiction over such claims. Defendant denies the substance of the alleged claims.

2. Defendant denies the allegations of this Paragraph to the extent they are directed towards Defendant. Defendant lacks sufficient knowledge or information to form a belief about the truth of any allegations in this paragraph directed against other entities, and so denies them.

II. INTRODUCTION

3. Defendant admits this action has been filed by Plaintiff against online sellers based on alleged trademark infringement. Except as so admitted, the remaining allegations in paragraph 3 are denied. Defendant denies the substance of the alleged claims.

III. THE PARTIES

Plaintiff

4. Defendant lacks sufficient knowledge or information to form a belief as to the truth of these allegations and therefore denies the allegations in paragraph 4.

5. Defendant lacks sufficient knowledge or information to form a belief as to the truth of these allegations and therefore denies the allegations in paragraph 5.

6. Defendant lacks sufficient knowledge or information to form a belief as to the truth of these allegations and therefore denies the allegations in paragraph 6.

7. Defendant lacks sufficient knowledge or information to form a belief as to the truth of these allegations and therefore denies the allegations in paragraph 7.

8. Defendant lacks sufficient knowledge or information to form a belief as to the truth of these allegations and therefore denies the allegations in paragraph 8.

9. Defendant lacks sufficient knowledge or information to form a belief as to the truth of these allegations and therefore denies the allegations in paragraph 9.

10. Defendant lacks sufficient knowledge or information to form a belief as to the truth of these allegations and therefore denies the allegations in paragraph 10.

11. Defendant lacks sufficient knowledge or information to form a belief as to the truth of these allegations and therefore denies the allegations in paragraph 11.

12. Defendant lacks sufficient knowledge or information to form a belief as to the truth of these allegations and therefore denies the allegations in paragraph 12.

13. Defendant lacks sufficient knowledge or information to form a belief as to the truth of these allegations and therefore denies the allegations in paragraph 13.

14. Defendant lacks sufficient knowledge or information to form a belief as to the truth of these allegations and therefore denies the allegations in paragraph 14.

15. Defendant lacks sufficient knowledge or information to form a belief as to the truth of these allegations and therefore denies the allegations in paragraph 15.

16. Defendant lacks sufficient knowledge or information to form a belief as to the truth of these allegations and therefore denies the allegations in paragraph 16.

The Defendants

17. Defendant is an Amazon store, operates in the People's Republic of China. Except as so admitted, the remaining allegations in paragraph 17 are denied.

18. Defendant denies the allegations of this Paragraph to the extent they are directed towards Defendant. Defendant lacks sufficient knowledge or information to form a belief about the truth of any allegations in this paragraph directed against other entities, and so denies them.

IV. DEFENDANTS' [ALLEGED] UNLAWFUL CONDUCT

19. Defendant lacks sufficient knowledge or information to form a belief as to the truth of these allegations and therefore denies the allegations in paragraph 19.

20. Defendant lacks sufficient knowledge or information to form a belief as to the truth of these allegations and therefore denies the allegations in paragraph 20.

21. Defendant denies the allegations of this Paragraph to the extent they are directed towards Defendant. Defendant lacks sufficient knowledge or information to form a belief about the truth of any allegations in this paragraph directed against other entities, and so denies them.

22. Defendant denies the allegations of this Paragraph to the extent they are directed towards Defendant. Defendant lacks sufficient knowledge or information to form a belief about the truth of any allegations in this paragraph directed against other entities, and so denies them.

23. Defendant denies the allegations of this Paragraph to the extent they are directed towards Defendant. Defendant lacks sufficient knowledge or information to form a belief about the truth of any allegations in this paragraph directed against other entities, and so denies them.

24. Defendant denies the allegations of this Paragraph to the extent they are directed towards Defendant. Defendant lacks sufficient knowledge or information to form a belief about the truth of any allegations in this paragraph directed against other entities, and so denies them.

25. Defendant denies the allegations of this Paragraph to the extent they are directed towards Defendant. Defendant lacks sufficient knowledge or information to form a belief about the truth of any allegations in this paragraph directed against other entities, and so denies them.

26. Defendant denies the allegations of this Paragraph to the extent they are directed towards Defendant. Defendant lacks sufficient knowledge or information to form a belief about the truth of any allegations in this paragraph directed against other entities, and so denies them.

27. Defendant denies the allegations of this Paragraph to the extent they are directed towards Defendant. Defendant lacks sufficient knowledge or information to form a belief about the truth of any allegations in this paragraph directed against other entities, and so denies them.

28. Defendant denies the allegations of this Paragraph to the extent they are directed towards Defendant. Defendant lacks sufficient knowledge or information to form a belief about the truth of any allegations in this paragraph directed against other entities, and so denies them.

29. Defendant denies the allegations of this Paragraph to the extent they are directed towards Defendant. Defendant lacks sufficient knowledge or information to form a belief about the truth of any allegations in this paragraph directed against other entities, and so denies them.

30. Defendant denies the allegations of this Paragraph to the extent they are directed towards Defendant. Defendant lacks sufficient knowledge or information to form a belief about the truth of any allegations in this paragraph directed against other entities, and so denies them.

COUNT I
[ALLEGED] TRADEMARK INFRINGEMENT AND COUNTERFEITING (15 U.S.C. § 1114)

31. Defendant incorporates by reference its answers in Paragraphs 1 through 30 above.

32. Defendant admits that this is a trademark infringement action. Except as so admitted, the remaining allegations in paragraph 32 are denied. Defendant denies the substance of the alleged claims.

33. Defendant denies the allegations of this Paragraph to the extent they are directed towards Defendant. Defendant lacks sufficient knowledge or information to form a belief about the truth of any allegations in this paragraph directed against other entities, and so denies them.

34. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations made in the first two sentences in this paragraph and therefore denies. Defendant denies the allegations of this Paragraph to the extent they are directed towards Defendant. Defendant lacks sufficient knowledge or information to form a belief about the truth of any allegations in this paragraph directed against other entities, and so denies them.

35. Defendant denies the allegations of this Paragraph to the extent they are directed towards Defendant. Defendant lacks sufficient knowledge or information to form a belief about the truth of any allegations in this paragraph directed against other entities, and so denies them.

36. Denied.

37. Denied.

COUNT II
[ALLEGED] FALSE DESIGNATION OF ORIGIN (15 U.S.C. § 1125(a))

38. Defendant incorporates by reference its answers in Paragraphs 1 through 37 above.

39. Defendant denies the allegations of this Paragraph to the extent they are directed towards Defendant. Defendant lacks sufficient knowledge or information to form a belief about the truth of any allegations in this paragraph directed against other entities, and so denies them.

40. Defendant denies the allegations of this Paragraph to the extent they are directed towards Defendant. Defendant lacks sufficient knowledge or information to form a belief about the truth of any allegations in this paragraph directed against other entities, and so denies them.

41. Defendant denies the allegations of this Paragraph to the extent they are directed towards Defendant. Defendant lacks sufficient knowledge or information to form a belief about the truth of any allegations in this paragraph directed against other entities, and so denies them.

42. Denied.

AFFIRMATIVE DEFENSES

By way of further Answer and as affirmative defenses, Defendant denies that it is liable to Plaintiff on any of the claims alleged and denies that Plaintiff is entitled to damages, treble or punitive, equitable relief, attorneys' fees, costs, pre-judgement interest or to any relief whatsoever, and states as follows:

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

1. The Complaint, on one or more counts set forth therein, fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

(Fair Use)

2. The claims made in the Complaint are barred, in whole or in part, by the doctrines of fair use, nominative fair use and/or descriptive use.

THIRD AFFIRMATIVE DEFENSE

(Laches)

3. Plaintiff's claims are barred by laches, in the Plaintiff has unreasonably delayed efforts to enforce its rights, if any, despite its full awareness of Defendant's actions.

FOURTH AFFIRMATIVE DEFENSE

(Waiver, Acquiescence, and Estoppel)

4. Each of the purported claims are set forth in this Complaint is barred by the doctrines of waiver, acquiescence, and estoppel.

FIFTH AFFIRMATIVE DEFENSE

(Non-Infringement)

5. Defendant has not infringed any applicable trademarks under federal or state law.

SIXTH AFFIRMATIVE DEFENSE

(Duplicative Claims)

6. Without admitting that the Complaint states a claim, any remedies are limited to the extent that there is sought an overlapping or duplicative recovery pursuant to the various claims for any alleged single wrong.

SEVENTH AFFIRMATIVE DEFENSE

(Actions of Others)

7. The claims made in the Complaint are barred, in whole or in part, because Defendant is not liable for the acts of others over whom it has no control.

EIGHT AFFIRMATIVE DEFENSE

(Third-Party Use)

8. The claims made in the Complaint are barred, in whole or in part, by reason of other parties' use of any marks at issue.

ADDITIONAL DEFENSES

Defendant reserves the right to assert additional affirmative defenses based on information learned or obtained during discovery.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Defendant hereby demands a trial by jury on all issues that are triable of right to a jury in this action.

RESPONSE TO UNNUMBERED PRAYER FOR RELIEF

Defendant denies Plaintiff's prayer for relief (including its Paragraphs 1-6) in its entirety. Plaintiff is not entitled to any of the relief requested by Plaintiff in its Complaint.

Dated: November 3, 2023

Respectfully submitted,

/s/ Timothy T. Wang

Timothy T. Wang

Texas Bar No. 24067927

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**ATTORNEY FOR DEFENDANT
MOYOTO.**

CERTIFICATE OF SERVICE

On November 3, 2023, I filed the foregoing document with the clerk of court for the U.S. District Court, Northern District of Illinois, Eastern Division, using the CM/ECF System which will send notification of said filing to all counsel of record.

/s/ Timothy T. Wang

Timothy T. Wang